

STATEMENT OF
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DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE
CENTRAL INTELLIGENCE AGENCY
BEFORE THE
SUBCOMMITTEE ON
GOVERNMENT INFORMATION & INDIVIDUAL RIGHTS
OF THE
GOVERNMENT OPERATIONS COMMITTEE
HOUSE OF REPRESENTATIVES
FEBRUARY 20, 1980

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE, I AM PLEASED TO APPEAR BEFORE YOU TODAY TO DISCUSS THE SERIOUS IMPACT THAT THE FREEDOM OF INFORMATION ACT IS HAVING ON THE MISSION AND FUNCTIONS OF THE CENTRAL INTELLIGENCE AGENCY. I INTEND TO BE AS DETAILED AS POSSIBLE IN THIS PUBLIC SESSION.

AS YOU ARE AWARE, I TESTIFIED ON THIS SUBJECT IN APRIL OF LAST YEAR BEFORE THE HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE SUBCOMMITTEE ON LEGISLATION. WHAT I HAVE TO SAY IS NOT A NEW STORY. I WILL MAKE NO NEW AND DRAMATIC REVELATIONS TODAY. THE TALE I WILL TELL IS ONE WHICH HAS BEEN TOLD BEFORE AND WHICH I WILL CONTINUE TO RETELL TO THE CONGRESS UNTIL SUCH TIME AS WE ARE GRANTED THE REQUIRED RELIEF FROM THIS ACT. SINCE LAST APRIL WE HAVE WITNESSED THE GROWTH OF A BROAD BASED CONGRESSIONAL RECOGNITION OF THE INTELLIGENCE COMMUNITY'S NEED FOR RELIEF FROM THE MOST DAMAGING ASPECTS OF THE CURRENT LAW. CONGRESSMAN ROBERT McCLORY OF ILLINOIS FIRST

INTRODUCED H.R. 5129, WHICH CONTAINS LANGUAGE WHICH IS ALL BUT IDENTICAL TO THAT WHICH I PROPOSED LAST APRIL. MORE RECENTLY, SENATORS MOYNIHAN AND JACKSON WITH OTHERS HAVE INTRODUCED S. 2216, THE "INTELLIGENCE REFORM ACT OF 1980." THIS OMNIBUS PIECE OF LEGISLATION ADEQUATELY ADDRESSES OUR CONCERN WITH THE FREEDOM OF INFORMATION ACT AS WELL AS PROVIDING RELIEF TO OTHER CRITICAL AREAS OF INTELLIGENCE CONCERN. REPRESENTATIVE C.W. "BILL" YOUNG OF FLORIDA HAS INTRODUCED H.R. 6316, THE HOUSE COUNTERPART OF MR. MOYNIHAN'S BILL. THE RECENTLY PROPOSED INTELLIGENCE CHARTER, OF COURSE, CONTAINS LANGUAGE WHICH WOULD PROVIDE RELIEF IN THIS AREA.

MY APPEARANCE BEFORE YOU TODAY IS ANOTHER INDICATION OF SERIOUS CONCERN BY THE CONGRESS OVER OUR PROBLEMS WITH THE FOIA. IT IS ONE TO WHICH I ATTACH A GREAT IMPORTANCE.

I WOULD, HOWEVER, LIKE TO POINT OUT THAT I STILL FACE A DILEMMA IN APPEARING BEFORE YOU TODAY ON THIS SUBJECT, JUST AS I DID A YEAR AGO WHEN I APPEARED BEFORE THE HOUSE PERMANENT

SELECT COMMITTEE ON INTELLIGENCE. AS MY REMARKS WILL MAKE CLEAR, WE HAVE SERIOUS PROBLEMS IN OUR COUNTRY IN KEEPING THE AUTHORIZED AND LEGITIMATE INTELLIGENCE ACTIVITIES SECRET. THE HARMFUL EFFECTS OF THE FREEDOM OF INFORMATION ACT ARE WITHOUT QUESTION GENUINE; BUT THE PROBLEM CAN BEST BE EXAMINED AS A MATTER OF PERCEPTION.

MY TESTIMONY TODAY WILL BE USED BY THE SOVIET KGB AND OTHER HOSTILE FOREIGN INTELLIGENCE SERVICES TO CONVINCE POTENTIAL SOURCES OF INFORMATION THAT COOPERATION WITH THE UNITED STATES IS A FOOLHARDY ENDEAVOR BECAUSE SUCH COOPERATION IS BOUND TO BECOME PUBLIC. EVEN SO, I FIRMLY BELIEVE THAT MY APPEARANCE IN OPEN SESSION CAN COUNTERACT SUCH ATTEMPTS, IF THE END RESULT IS LEGISLATION WHICH SAFEGUARDS THE CAPABILITY OF OUR AGENCY AND ITS OFFICERS TO CONVINCINGLY OFFER THE PROTECTION FROM PUBLIC DISCLOSURE WHICH PEOPLE WHO, IN AIDING OUR COUNTRY AND PLACING THEIR LIFE OR LIBERTY IN JEOPARDY, RIGHTLY DEMAND.

I ALSO WANT TO REITERATE TODAY THAT ADMIRAL TURNER AND I CONTINUE TO SUPPORT THE GENERAL CONCEPT OF OPENNESS IN GOVERNMENT. UNDER ADMIRAL TURNER'S LEADERSHIP, OVER 150 FINISHED INTELLIGENCE REPORTS PER YEAR ARE MADE AVAILABLE TO THE PUBLIC. WE HAVE MOVED AWAY FROM ROUTINE "NO COMMENT" ANSWERS, AND WE ARE NOW AS RESPONSIVE AS POSSIBLE TO MEDIA INQUIRIES. AS YOU MAY BE AWARE, WE ALSO CONTINUE TO CONDUCT A DIALOGUE WITH AMERICAN ACADEMIC SPECIALISTS. IN ADDITION, CIA ANALYTICAL PERSONNEL INCREASINGLY PARTICIPATE IN THE PUBLIC PRESENTATION OF UNCLASSIFIED PROFESSIONAL PAPERS. IN THIS LATTER INSTANCE, THE SUBSTANTIVE PRODUCT OF CIA IS MADE AVAILABLE, THUS CONTRIBUTING TO AN INFORMED PUBLIC WITHOUT RISKING THE DISCLOSURE OF SENSITIVE INTELLIGENCE SOURCES AND METHODS.

WE ALSO SUPPORT THE RIGHT OF THE AMERICAN CITIZEN TO HAVE ACCESS TO THE AFFAIRS OF HIS GOVERNMENT AND TO BE ASSURED THAT INFORMATION ON HIM, WHICH IS GATHERED

BY HIS GOVERNMENT, IS ACCURATE AND WILL NOT BE ABUSED.

IT IS IN THIS SPIRIT THAT WE SUPPORTED THE FOREIGN INTELLIGENCE PROVISIONS OF THE PRIVACY OF MEDICAL RECORDS BILL CONSIDERED BY YOUR COMMITTEE. OUR PROPOSAL FOR LEGISLATIVE RELIEF FROM THE FOIA RECOGNIZES THIS RIGHT.

WHAT WE DO QUESTION SERIOUSLY AND THOUGHTFULLY, HOWEVER, IS THE APPROPRIATENESS OF APPLYING GOVERNMENT-WIDE PUBLIC DISCLOSURE CONCEPTS TO THOSE LEGITIMATE ACTIVITIES OF THE CENTRAL INTELLIGENCE AGENCY WHICH NECESSITATE SECRECY. IT IS MY FIRM BELIEF THAT THE AMERICAN PUBLIC RECOGNIZES AND STRONGLY SUPPORTS THE NEED FOR THEIR INTELLIGENCE SERVICE TO HOLD INVIOULATE THOSE SECRETS ENTRUSTED TO THEIR KEEPING. I ALSO BELIEVE THAT IT WAS NOT THE INTENT OF CONGRESS TO MAKE AVAILABLE FOR SEARCH, REVIEW AND POSSIBLE RELEASE THAT OPERATIONAL INFORMATION. THE CONGRESS, IN FACT, HAS REAFFIRMED THE UNIQUENESS OF OUR MISSION AND THE INFORMATION DERIVED FROM IT BY CREATING SPECIAL OVERSIGHT COMMITTEES IN BOTH HOUSES OF CONGRESS. AS A RESULT, THERE NOW EXIST MORE EFFECTIVE

CONGRESSIONAL OVERSIGHT MECHANISMS TO ASSURE THE ACCOUNTABILITY, LEGALITY AND PROPRIETY OF CIA ACTIVITIES WHICH MUST REMAIN SECRET. ADMIRAL TURNER AND I, AS CONGRESSIONALLY APPROVED PRESIDENTIAL APPOINTEES, INSURE THAT THESE COMMITTEES ARE NOW AND WILL CONTINUE TO BE SUPPLIED WITH WHATEVER INFORMATION THEY NEED IN ORDER THAT THE CONGRESS MAY BE SATISFIED THAT THE CENTRAL INTELLIGENCE AGENCY IS CONDUCTING ITS ACTIVITIES WITHIN THE LAW.

IT IS, I SUBMIT, THROUGH THESE COMMITTEES, AS WELL AS THE EXTENSIVE EXECUTIVE BRANCH REVIEW MECHANISMS, NOT THROUGH 23,000 FOREIGN AND AMERICAN FOIA REQUESTERS, THAT OVERSIGHT OF THIS NATION'S MOST SENSITIVE ACTIVITIES MUST BE UNDERTAKEN.

WHILE IT IS FOR THE PEOPLE, THROUGH THEIR ELECTED REPRESENTATIVE IN CONGRESS, TO DECIDE WHETHER THE BEST INTERESTS OF THE NATION ARE SERVED BY THE APPLICATION OF GENERAL OPENNESS CONCEPTS TO INTELLIGENCE ACTIVITIES, IT

IS OUR POSITION THAT THE BEST INTERESTS OF THE NATION ARE NOT SO SERVED. MY THEME TODAY, THEREFORE, IS THAT THE CURRENT APPLICATION TO THE CIA OF PUBLIC DISCLOSURE STATUTES LIKE THE FREEDOM OF INFORMATION ACT SERIOUSLY DAMAGE THE AGENCY'S ABILITY TO DO ITS JOB.

BEFORE I PROVIDE MORE DETAILS, I MUST MAKE ONE POINT:

-- UNDER THE CURRENT FREEDOM OF INFORMATION ACT, NATIONAL SECURITY EXEMPTIONS DO EXIST TO PROTECT THE MOST VITAL INTELLIGENCE INFORMATION. THE KEY POINT, HOWEVER, IS THAT THOSE SOURCES UPON WHOM WE DEPEND FOR THAT INFORMATION HAVE AN ENTIRELY DIFFERENT PERCEPTION. ADMITTEDLY, THIS PERCEPTION ARISES FROM MORE THAN THE FOIA. THERE HAVE, FOR EXAMPLE, BEEN LEAKS. THERE HAVE BEEN CASES OF ESPIONAGE, FORMER AGENCY EMPLOYEES HAVE WRITTEN BOOKS WITHOUT PROPER CLEARANCE BEFOREHAND AND PHILIP AGEE AND OTHERS CONTINUE TO PUBLISH A MONTHLY BULLETIN -- THE COVERT ACTION INFORMATION BULLETIN -- DEDICATED TO EXPOSING OUR EMPLOYEES UNDERCOVER

AND OUR OPERATIONS OVERSEAS. WE ARE CURRENTLY SEEKING REMEDIES TO ALL OF THESE PROBLEMS.

THE FREEDOM OF INFORMATION ACT, HOWEVER, HAS EMERGED AS A FOCAL POINT OF THE OFTEN-HEARD ALLEGATION THAT THE CIA CANNOT KEEP A SECRET, THAT IS, CANNOT PROPERLY PROTECT ITS INFORMATION FROM PUBLIC DISCLOSURE. IT HAS, THEREFORE, ASSUMED A LARGER THAN LIFE ROLE AS A SYMBOL OF THIS NATION'S DIFFICULTY IN KEEPING CONFIDENCES INVIOLEATE. THE PERCEPTION HELD BY THOSE WHO WOULD ONLY ENTER INTO ARRANGEMENTS WITH US ON A CONFIDENTIAL BASIS IS SOMETHING WE CANNOT IGNORE.

IN ORDER TO APPRECIATE THE FOIA'S IMPACT ON INTELLIGENCE, IT IS IMPORTANT TO CLEARLY UNDERSTAND HOW WE OPERATE.

FOR INSTANCE, IT IS A MISCONCEPTION THAT OUR PEOPLE SPEND MOST OF THEIR TIME MOVING AROUND TRYING TO PICK UP INFORMATION IN BARS AND PHOTOGRAPHING DOCUMENTS WITH SECRET CAMERAS. ACTUALLY THEIR MISSION IS TO ESTABLISH WHAT IS

ESSENTIALLY A SECRET CONTRACTUAL RELATIONSHIP WITH PEOPLE IN KEY POSITIONS WITH ACCESS TO INFORMATION THAT MIGHT OTHERWISE BE INACCESSIBLE TO THE UNITED STATES GOVERNMENT.

THIS IS NOT AN EASY TASK, NOR IS IT QUICKLY ACCOMPLISHED. THE PRINCIPAL INGREDIENT IN THESE RELATIONSHIPS IS TRUST. TO BUILD A CLANDESTINE RELATIONSHIP, WHICH IN MANY CASES ENTAILS AN INDIVIDUAL'S PUTTING HIS LIFE AND THE SAFETY OF HIS FAMILY IN JEOPARDY TO FURNISH INFORMATION TO THE U.S. GOVERNMENT, IS A DELICATE AND TIME-CONSUMING TASK. OFTEN, IT TAKES YEARS TO CONVINCE AN INDIVIDUAL THAT WE CAN PROTECT HIM. EVEN THEN, THE SLIGHTEST PROBLEM, PARTICULARLY A BREACH OR PERCEIVED BREACH OF TRUST, CAN PERMANENTLY DISRUPT THE RELATIONSHIP.

ONE MUST RECOGNIZE ALSO THAT MOST OF THOSE WHO PROVIDE US WITH OUR MOST VALUABLE AND THEREFORE MOST SENSITIVE INFORMATION COME FROM SOCIETIES WHERE SECRECY IN BOTH GOVERNMENT AND EVERYDAY LIFE PREVAILS. IN THESE SOCIETIES,

INDIVIDUALS SUSPECTED OF ANYTHING LESS THAN TOTAL ALLEGIANCE TO THE RULING PARTY OR CLIQUE MAY BE SUMMARILY DISMISSED FROM THEIR JOBS, INCARCERATED, OR EVEN EXECUTED. IN SOCIETIES SUCH AS THESE, THE CONCEPTS BEHIND THE FREEDOM OF INFORMATION ACT ARE TOTALLY ALIEN, FRIGHTENING, AND INDEED CONTRARY TO ALL THAT THEY KNOW. IT IS VIRTUALLY IMPOSSIBLE FOR MOST OF OUR AGENTS AND SOURCES IN SUCH SOCIETIES TO UNDERSTAND THE LAW ITSELF, MUCH LESS WHY AN ORGANIZATION SUCH AS THE CENTRAL INTELLIGENCE AGENCY, WHEREIN REPOSES THEIR IDENTITIES AND THE INFORMATION THEY HAVE PROVIDED, SHOULD BE SUBJECT TO THE ACT. WE CONSTANTLY WITNESS SENSATIONAL NEWS ARTICLES DESCRIBING CIA INFORMATION OBTAINED UNDER FOIA. IT IS DIFFICULT, THEREFORE, TO CONVINCE ONE WHO IS SECRETLY COOPERATING WITH US THAT SOMEDAY HE WILL NOT AWAKEN TO FIND IN A U.S. NEWSPAPER OR MAGAZINE INFORMATION WHICH HE HAS FURNISHED TO THE AGENCY WHICH CAN BE TRACED BACK TO HIM.

ALSO, IMAGINE THE SHACKLES BEING PLACED ON THE CIA OFFICER TRYING TO CONVINCE THE FOREIGN SOURCE TO COOPERATE WITH THE UNITED STATES. THE SOURCE, WHO MAY BE LEANING TOWARDS COOPERATION, WILL DEMAND THAT HIS INFORMATION BE PROTECTED. HE WANTS ABSOLUTE ASSURANCE THAT NOTHING WILL BE GIVEN OUT WHICH COULD CONCEIVABLY LEAD HIS OWN INCREASINGLY SOPHISTICATED COUNTERINTELLIGENCE SERVICE TO APPEAR AT HIS DOORSTEP. BUT THE BARRAGE OF INTELLIGENCE DISCLOSURES ARE, MR. CHAIRMAN, MAKING IT HARDER AND HARDER FOR OUR OFFICERS TO CONVINCE POTENTIAL SOURCES THAT THEIR COOPERATION CAN BE KEPT SECRET.

ALTHOUGH WE ASSURE THESE INDIVIDUALS THAT THEIR INFORMATION IS AND WILL CONTINUE TO BE WELL PROTECTED, WE HAVE ON RECORD NUMEROUS CASES WHERE OUR ASSURANCES HAVE NOT SUFFICED. FOREIGN AGENTS, SOME VERY IMPORTANT, HAVE EITHER REFUSED TO ACCEPT OR HAVE TERMINATED A RELATIONSHIP ON THE GROUNDS THAT, IN THEIR MINDS -- AND IT IS UNIMPORTANT

WHETHER THEY ARE RIGHT OR NOT -- BUT IN THEIR MINDS THE CIA IS NO LONGER ABLE TO ABSOLUTELY GUARANTEE THAT INFORMATION WHICH THEY PROVIDE THE U.S. GOVERNMENT IS SACROSANCT. AGAIN, WE BELIEVE WE CAN KEEP IT SO, BUT IT IS, IN THE FINAL ANALYSIS, THEIR PERCEPTION -- NOT OURS -- WHICH COUNTS.

FOR EXAMPLE, A SENIOR FOREIGN OFFICIAL WHO FOR TWO YEARS HAD PROVIDED SENSITIVE INFORMATION ON MILITARY AND POLITICAL AFFAIRS ASKED THAT THE CLANDESTINE PAYMENTS TO HIM BE DISCONTINUED. THE AGENCY'S INABILITY TO PROTECT SECRETS BECAUSE OF THE FREEDOM OF INFORMATION ACT AND BOOKS WRITTEN BY FORMER AGENCY OFFICERS WERE CITED AS REASONS FOR DISCONTINUING HIS PAID AGENT ROLE.

IN ANOTHER CASE, A SOURCE WHO HAD FOR 3 YEARS BEEN COOPERATIVE AND PRODUCTIVE ON INTERNATIONAL ECONOMIC ACTIVITY IN 1978 STRONGLY EXPRESSED HIS GROWING CONCERN OF MEDIA DISCLOSURES OF CIA INTELLIGENCE ACTIVITIES. THIS SOURCE'S CONCERN LED TO DIMINISHED CONTACT WITH HIM AND FINALLY

THERE ARE OTHER INSTANCES WHERE AGENTS HAVE CITED THE FOIA AS THE REASON FOR UNWILLINGNESS TO EITHER COOPERATE INITIALLY, CONTINUE TO COOPERATE, OR COOPERATE AS FULLY AS IN THE PAST. HOW MANY CASES OF REFUSAL TO COOPERATE WHERE NO REASON IS GIVEN BUT IF KNOWN WOULD BE FOR SIMILAR REASONS, I CANNOT SAY. I SUBMIT, HOWEVER, THAT BASED UPON THE NUMEROUS CASES OF WHICH WE ARE AWARE, THERE ARE MANY MORE CASES OF SOURCES WHO HAVE DISCONTINUED A RELATIONSHIP OR REDUCED THEIR INFORMATION FLOW BASED ON THEIR FEAR OF DISCLOSURE. NO ONE CAN QUANTIFY HOW MUCH INFORMATION VITAL TO THE NATIONAL SECURITY OF THE UNITED STATES HAS BEEN OR WILL BE LOST AS A RESULT.

THE FOIA ALSO HAS HAD A NEGATIVE EFFECT ON OUR RELATIONSHIPS WITH FOREIGN INTELLIGENCE SERVICES. AS I NOTED IN MY TESTIMONY LAST APRIL, THE CHIEF OF A MAJOR FOREIGN INTELLIGENCE SERVICE SAT IN MY OFFICE AND FLATLY STATED THAT HE COULD NO

LONGER FULLY COOPERATE AS LONG AS CIA IS SUBJECT TO THE FREEDOM OF INFORMATION ACT. LIKEWISE, A MAJOR FOREIGN INTELLIGENCE SERVICE DISPATCHED TO WASHINGTON A HIGH RANKING OFFICIAL FOR THE SPECIFIC PURPOSE OF REGISTERING CONCERN OVER THE IMPACT OF THE FOIA ON OUR RELATIONSHIP. I STRONGLY ARGUED THAT WE HAD ADEQUATE NATIONAL SECURITY EXEMPTIONS. WHILE ADMITTING AWARENESS OF THESE EXEMPTIONS, THIS REPRESENTATIVE CORRECTLY NOTED THAT EVEN INFORMATION DENIED UNDER THE EXEMPTIONS WAS SUBJECT TO LATER REVIEW AND POSSIBLE RELEASE BY A U.S. COURT. WHILE THIS HAD NOT YET HAPPENED WHEN I LAST TESTIFIED, A U.S. DISTRICT COURT JUDGE IN AN FOIA CASE HAS RECENTLY ORDERED THE RELEASE OF CIA CLASSIFIED INFORMATION. THE DISCLOSURE OF SUCH INFORMATION WILL COMPROMISE SEVERAL EXTREMELY SENSITIVE INTELLIGENCE SOURCES. THE COURT HAS IN EFFECT SECOND GUESSED THE PROFESSIONAL JUDGMENT OF THE DIRECTOR OF CENTRAL INTELLIGENCE. WE HOPE TO REVERSE THIS OUTCOME ON APPEAL. BUT WE CANNOT GUARANTEE THE OUTCOME OF THIS APPEAL OR ANY FUTURE CASE.

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SINCE MY TESTIMONY LAST APRIL, OTHER SENIOR REPRESENTATIVES OF SEVERAL COOPERATING FOREIGN INTELLIGENCE SERVICES HAVE EXPRESSED TO ME A SIMILIAR SENSE OF DISMAY OVER OUR SEEMING INABILITY TO EFFECTUATE RELIEF FROM THE MOST DAMAGING PROVISIONS OF THE FOIA. OUR STATIONS OVERSEAS CONTINUE TO REPORT INCREASING CONSTERNATION OVER WHAT IS SEEN AS AN INABILITY TO KEEP INFORMATION ENTRUSTED TO US SECRET. THE UNANSWERABLE QUESTION IS, HOW MANY OTHER SERVICES ARE NOW MORE CAREFUL AS TO WHAT INFORMATION THEY PASS TO THE UNITED STATES?

FINALLY, IT IS NOT ONLY FOREIGN SOURCES OF INTELLIGENCE INFORMATION THAT FEEL THREATENED BY THE FOIA'S APPLICABILITY TO THE CENTRAL INTELLIGENCE AGENCY. THE FOIA HAS IMPACTED ADVERSELY ON OUR DOMESTIC CONTACTS AS WELL. AS THE COMMITTEE IS WELL AWARE, PATRIOTIC AMERICANS VOLUNTEER INFORMATION WHICH IS INVALUABLE TO THE U.S. GOVERNMENT. MOST OF THESE AMERICANS, FOR BUSINESS AND OTHER REASONS, INSIST THAT WE

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PROTECT THE FACT OF THEIR COOPERATION AND THE INFORMATION
WHICH THEY PROVIDE.

DESPITE THE UNIVERSAL CONCERN OVER FOIA, MOST AMERICANS
CONTINUE TO HELP US. BUT THERE ARE THOSE WHO, IN ASSESSING
THE RISK OF DISCLOSURE, DETERMINE THAT IT IS NOT IN THEIR
BEST INTEREST TO COOPERATE. THEY FIND THEIR SENSE OF
PATRIOTISM FRUSTRATED BY AN OBLIGATION THAT THEIR PRIVATE
INTERESTS NOT BE JEOPARDIZED. FOR EXAMPLE, THE HEAD OF A
LARGE AMERICAN COMPANY AND FORMER CABINET MEMBER TOLD ME
THAT HE THOUGHT ANY COMPANY WAS OUT OF ITS MIND TO COOPERATE
WITH CIA AS LONG AS THE PROVISIONS OF THE FOIA APPLY TO IT.
I THINK HE IS ABSOLUTELY WRONG, BUT AGAIN IT IS IN THE FINAL
ANALYSIS HIS PERCEPTION, NOT OURS, THAT COUNTS. UNFORTUNATELY,
HE IS NOT ALONE. A RECENT APPROACH MADE TO A U.S. BUSINESSMAN
WITH GOOD ACCESS TO FOREIGN MILITARY INFORMATION WAS
INITIALLY REJECTED. THE POTENTIAL SOURCE INTERROGATED THE
CIA OFFICER AT LENGTH, ASKED ABOUT DISCLOSURE POLICIES, THE

FOIA AND ITS REQUIREMENTS, CIA RESPONSIBILITIES UNDER DISCLOSURE STATUTES, GUARANTEES THAT CIA COULD REALLY PROTECT HIS INFORMATION FROM DISCLOSURE, THE EFFECTS OF RELEASE BY CIA OF INFORMATION TO CONGRESS AND THE ABILITY, UNDER THE FOIA OR OTHERWISE, OF HIS COMPETITORS TO UNCOVER INFORMATION PASSED TO CIA BY HIS COMPANY. AN AGREEMENT WAS FINALLY REACHED WHERE CIA WAS GIVEN LIMITED ACCESS TO ONE PERSON, RESTRICTED TO ONE VERY NARROW AREA OF INFORMATION. WE ARE CONVINCED THAT THIS MAN'S FEAR OF DISCLOSURE CAUSED THIS SEVERE LIMITATION ON WHAT MIGHT OTHERWISE HAVE BEEN A CONSIDERABLE FLOW OF IMPORTANT INTELLIGENCE INFORMATION. OVER THE PAST FEW YEARS THIS DILEMMA HAS PROMPTED OTHER IMPORTANT U.S. SOURCES OF INFORMATION TO DISCONTINUE THEIR COOPERATION WITH U.S. INTELLIGENCE.

THE FOIA IS A PRINCIPAL SYMBOL OF THE PROBLEM. THESE EXAMPLES DEMONSTRATE THE HARMFUL EFFECT THE FREEDOM OF INFORMATION ACT HAS HAD ON OUR ABILITY TO COLLECT

INTELLIGENCE. MR. CHAIRMAN, WE ARE EXPECTED TO PROVIDE THE BEST POSSIBLE INFORMATION TO U.S. POLICYMAKERS AND TO THE CONGRESS. WE ARE AND WILL CONTINUE TO BE SERIOUSLY HAMPERED IN ACHIEVING THIS OBJECTIVE UNLESS WE CAN GIVE MORE CERTAIN GUARANTEES TO OUR SOURCES THAT THEIR RELATIONSHIP WITH CIA AND THE INFORMATION WHICH THEY PROVIDE WILL BE HELD INVIOLEATE.

WHILE THE VAST MAJORITY OF CIA INFORMATION IS PROPERLY SECRET, EFFORTS TO EXCISE THESE SECRETS FROM DOCUMENTS IN RESPONSE TO FOIA REQUESTS PRODUCES FRAGMENTED INFORMATION WHICH IS OFTEN OUT OF CONTEXT, AND THEREFORE MISLEADING. OFTEN SUCH FRAGMENTARY INFORMATION RELEASED UNDER FOIA HAS BEEN EMBELLISHED WITH CONJECTURE TO PRODUCE SENSATIONAL BUT MISLEADING OR FALLACIOUS STORIES.

FOR EXAMPLE, A PREVIOUS RELEASE UNDER FOIA OF CIA INFORMATION REGARDING THE LATE DR. THOMAS DOOLEY WAS RECENTLY SEIZED BY THE WORLD PRESS AS POSITIVE PROOF THAT DR. DOOLEY WAS A CIA AGENT. THIS IS NOT THE TRUTH. BUT THE PERCEPTION OF THOSE WHO READ THE NUMEROUS SPECULATIONS

IN THE PRESS CANNOT BE EASILY CHANGED, AND IT UNDOUBTEDLY HAD A CHILLING EFFECT ON INDIVIDUALS WHO ARE INDEED COOPERATING. THEY MAY NOW BE ASKING THEMSELVES WHEN THEIR NAMES WILL BE RELEASED.

TURNING AGAIN TO THE FOREIGN SIDE OF THINGS, IT IS ALSO PROBABLE THAT A SOPHISTICATED FOREIGN INTELLIGENCE SERVICE COULD PIECE TOGETHER, FROM THE BITS AND PIECES OF RELEASED INFORMATION IN ONE OR ANOTHER AREA, A LARGER PORTION OF THE ENTIRE PICTURE REGARDING A PARTICULAR INTELLIGENCE ACTIVITY OR OPERATION. IT IS THEN LIKELY THAT FOREIGN INTELLIGENCE SERVICES COULD, BY ANALYZING INFORMATION RELEASED UNDER THE FOIA, UNCOVER U.S. INTELLIGENCE NEEDS, REQUIREMENTS AND TASKING AS THEY RELATE TO THEIR COUNTRY.

MR. CHAIRMAN, MY PRESENTATION TO YOU WOULD BE INCOMPLETE

IF I LEFT YOU WITH THE IMPRESSION THAT THE SOLE PROBLEM CREATED BY THE SUBJECTION OF OUR RECORDS TO THE FOIA WAS ONE OF PERCEPTION. FOIA PROCESSING IS, OF COURSE, CARRIED OUT BY HUMAN BEINGS. THIS RAISES THE POSSIBILITY OF HUMAN ERROR AND OF FAULTY JUDGMENT AS TO WHAT MAY AND WHAT MAY NOT BE RELEASED IN ONE OR ANOTHER SITUATION. MISTAKES, ALTHOUGH FEW AND FAR BETWEEN, HAVE BEEN MADE AND WILL, I FEAR, CONTINUE TO OCCUR NO MATTER HOW MUCH CARE WE EXERT IN PROCESSING REQUESTS.

ADDITIONALLY, AND PERHAPS MORE IMPORTANTLY, FOIA REQUESTS BREAK DOWN THE CIA'S SYSTEM OF COMPARTMENTED RECORDS. OUR COMPARTMENTED RECORD SYSTEM ALLOWS ONLY THOSE WITH A GENUINE NEED TO KNOW TO HAVE ACCESS TO ONE OR ANOTHER FILE OR EVEN INDIVIDUAL DOCUMENT. UNDER AN FOIA REQUEST ALL RECORDS AND FILES RELEVANT TO THE PARTICULAR REQUEST ARE DRAWN TOGETHER. THEY REMAIN TOGETHER DURING THE FOIA REQUEST, APPEAL, AND LITIGATION PROCESS, THUS GIVING THEM FAR WIDER DISTRIBUTION THAN THEY WOULD NORMALLY HAVE AND THAN IS

CONSISTENT WITH EVEN MINIMALLY ACCEPTABLE SECURITY PRACTICE.
THUS WE FIND THE ANOMALY THAT FOIA IS GIVEN A RANK OF
IMPORTANCE HIGHER THAN THE NEED TO KNOW PRINCIPLE WHICH
IS THE UNDERPINNING OF OUR INFORMATION SECURITY SYSTEM.

MR. CHAIRMAN, THUS FAR I HAVE SPOKEN TO SOME OF THE
OPERATIONALLY RELATED PROBLEMS WHICH WE AS AN AGENCY FACE IN
OUR ATTEMPT TO COMPLY WITH BOTH THE LETTER AND INTENT OF THE
LAW, WHILE AT THE SAME TIME INSURING OUR SOURCES THAT WE
WILL NOT RELEASE INFORMATION PROVIDED US IN CONFIDENCE.

BEFORE CLOSING, HOWEVER, I WOULD LIKE TO DISCUSS SOME
OF THE INCREASING ADMINISTRATIVE BURDENS WE FACE IN ENDEAVORING
TO COMPLY WITH THE ACT.

IN THIS REGARD, IT IS NO SURPRISE TO ME THAT THE
AGENCY IS UNABLE TO MEET THE CONGRESSIONALLY IMPOSED TIME
LIMITS OF THE FREEDOM OF INFORMATION ACT AND COULD,
AT ANY TIME, BE FOUND TO BE IN VIOLATION OF THE ACT.

FOR EXAMPLE, WITH A CURRENT BACKLOG OF 2,700 INFORMATION REQUESTS, WE MUST RELY ON THE ACCEPTED JUDICIAL DOCTRINE THAT WE ARE EXERCISING "DUE DILIGENCE" IN PROCESSING THE REQUESTS ON A FIRST RECEIVED/FIRST ANSWERED BASIS AND THAT THE DELAY RESULTS FROM "EXCEPTIONAL CIRCUMSTANCES"; THAT IS, A SUBSTANTIAL BACKLOG. WE ARGUE, THEREFORE, THAT THE COURTS SHOULD GRANT THE AGENCY MORE TIME THAN THAT ALLOWED UNDER THE ACT'S PROVISIONS.

HOWEVER, AS I NOTED EARLIER, FEDERAL COURTS ARE BEGINNING TO BECOME MORE IMPATIENT WITH THIS DOCTRINE. FOR EXAMPLE, A DISTRICT COURT, RECOGNIZING THAT IT IS FORCED TO RESPOND TO THE NEWLY IMPOSED REQUIREMENTS OF THE SPEEDY TRIAL ACT, HAS NOW TURNED TO US AND ORDERED US TO COMPLETE OUR WORK ON A 50,000 PAGE CASE IN FOUR MONTHS. IN REACHING THIS CONCLUSION THE FEDERAL JUDGE STATED, AND I QUOTE: "THERE ARE TWO WAYS TO DEAL WITH THIS PROBLEM. IF THE AGENCIES CANNOT COMPLY WITHIN THE LIMITS OF THEIR BUDGET, THEY SHOULD ASK

THE CONGRESS FOR ADDITIONAL FUNDS. ALTERNATIVELY, THEY SHOULD ASK THAT THE STATUTE BE AMENDED. BUT AS LONG AS THE LAW EXISTS IT WILL BE THE DUTY OF THIS COURT TO CARRY IT OUT, TO CARRY IT OUT JUST AS WE CARRY OUT THE SPEEDY TRIAL ACT." AS THE JUDGE SUGGESTED, TODAY I AM BRINGING THIS PROBLEM TO YOU. BUT I SUBMIT TO YOU THAT ADDITIONAL FUNDS WILL NOT SOLVE OUR PROBLEMS. TO HIRE 200 PEOPLE TO TAKE CARE OF OUR BACKLOG WOULD ONLY INCREASE THE DANGER THAT SENSITIVE INFORMATION WOULD BE RELEASED. GIVEN THE NATURE OF OUR FILE SYSTEMS AND GIVEN THE FACT THAT THE REVIEW OF INFORMATION REQUESTED UNDER THE FOIA CAN ONLY BE EFFICIENTLY AND SECURELY ACCOMPLISHED BY INDIVIDUALS KNOWLEDGEABLE IN THE MATERIAL THEY ARE REVIEWING, HIRING MORE WOULD NOT SOLVE THE PROBLEM. AND TO SPEED UP THE PROCESS IN AN ATTEMPT TO MEET THE CONGRESSIONALLY IMPOSED TIME LIMITS WILL ONLY DIVERT OUR PEOPLE FROM DOING THOSE JOBS THEY ARE MEANT TO DO: TO COLLECT, ANALYZE AND PRODUCE INTELLIGENCE.

FURTHER, WITH REGARD TO THE ADMINISTRATIVE BURDEN,
MR. CHAIRMAN, I OFFER THE FOLLOWING:
-- IN SPITE OF THE DIVERSION OF INCREASED MANPOWER, COUPLED
WITH EFFORTS TO IMPROVE OUR EFFICIENCY AND PRODUCTIVITY, WE
CONTINUE TO RECEIVE A HEAVIER VOLUME OF FOIA AND PRIVACY ACT
REQUESTS THAN WE CAN HANDLE. IN THIS REGARD WE HAVE RECEIVED
OVER THE PAST FIVE YEARS AN AVERAGE OF 4,744 FOIA, PA AND
EXECUTIVE ORDER 12065 REQUESTS PER YEAR OR ABOUT 18 PER DAY.
OUR CURRENT BACKLOG IS OVER 2,700 UNANSWERED REQUESTS AND THIS
FIGURE IS INCREASING.

-- WE HAVE MANY DIFFERENT DECENTRALIZED RECORD SYSTEMS,
WHICH MAY HAVE TO BE SEARCHED IN ORDER TO RESPOND TO A
PARTICULAR FOIA REQUEST. THESE DIVERGENT RECORD SYSTEMS, AS
I NOTED EARLIER, MUST BE SEPARATELY MAINTAINED BECAUSE
OF THE COMPARTMENTED SECURITY SYSTEM WHICH WE FIND ESSENTIAL.
THESE RECORD SYSTEMS ARE MAINTAINED TO MEET THE NEEDS OF OUR
MISSION. THIS SYSTEM DOES, HOWEVER, CREATE ITS OWN SPECIAL
PROBLEMS IN MEETING FOIA TIME RESTRICTIONS.

-- A TREMENDOUS AMOUNT OF INTERNAL COORDINATION OF

INFORMATION IS REQUIRED BECAUSE OF OUR COMPARTMENTED RECORD SYSTEM. NATURALLY, WE MUST ALSO CONSTANTLY COORDINATE INFORMATION WITH OTHER GOVERNMENT AGENCIES, DEPARTMENTS AND COMMITTEES OF THE CONGRESS TO ASSURE THAT WE FULLY PROTECT CLASSIFIED DATA ENTRUSTED TO OUR CARE AND THAT WE DO NOT RELEASE INFORMATION OBTAINED FROM ANOTHER AGENCY FOR WHICH THAT AGENCY MIGHT HAVE A LEGITIMATE BASIS FOR WITHHOLDING. THIS FURTHER COMPOUNDS THE PROBLEM IN MEETING THE TIME CONSTRAINTS IMPOSED BY THE FOIA.

-- THE AVERAGE COST OF PROCESSING REQUESTS AMOUNTS TO ABOUT \$900 EACH. IN RETURN WE HAVE COLLECTED AN AVERAGE OF \$2 PER REQUEST.

-- MANY REQUESTS ARE SENT TO US VIA A FORM LETTER. FOR EXAMPLE, REQUESTS RECEIVED FROM UNIVERSITIES OFTEN FOLLOW THIS PATTERN AND GENERALLY SPEAKING ARE EXTREMELY BROAD, ASKING FOR "ALL INFORMATION CIA HAS ON RELATIONSHIPS BETWEEN CIA AND

THE UNIVERSITY AND CIA AND UNIVERSITY STAFF OR
OFFICIALS."

-- OTHER REQUESTS ARE OF THE CURIOSITY VARIETY. TO
MOST OF THESE WE ARE ABLE TO PROVIDE ONLY A LIMITED
NUMBER OF DOCUMENTS BUT MUST, NONETHELESS, EXPEND
MANY FRUITLESS MANHOURS IN ARRIVING AT THAT CONCLUSION.

-- MANY OTHERS ARE FROM FOREIGNERS -- POSSIBLY REPRESENTATIVES OF HOSTILE INTELLIGENCE SERVICES AND CLEARLY SOME FROM THOSE WHOSE APPARENT PURPOSE IN WRITING IS TO UNCOVER INFORMATION WHICH WOULD DO HARM TO THIS NATION'S INTERESTS OVERSEAS.

-- A NUMBER ARE FROM INDIVIDUAL AUTHORS. IN ONE CASE WE HAVE DEVOTED THE TOTAL EFFORTS OF ONE PERSON FULL-TIME FOR A PERIOD OF 17 MONTHS. THIS AGAIN IS FOR A SINGLE REQUEST BY ONE INDIVIDUAL.

-- IN ANOTHER AREA, WE HAVE ALREADY EXPENDED OVER FOUR MAN-YEARS ON FOIA REQUESTS FROM PHILIP AGEE WHO IS AN ADMITTED

ADVERSARY OF THE CIA, DEDICATED TO EXPOSING THE IDENTITIES OF OUR OFFICERS SERVING UNDERCOVER. IT IS DISGRACEFUL THAT WE ARE REQUIRED TO ASSIST HIM IN HIS ENDEAVORS.

-- OFTEN REQUESTS ARE FOR INFORMATION ON U.S. PERSONALITIES ON WHOM WE ARE UNLIKELY TO HOLD INFORMATION. WE MUST, HOWEVER, SEARCH EXTENSIVELY ONLY TO CONCLUDE WE HAVE NO INFORMATION.

-- WE FREQUENTLY RECEIVE REQUESTS WHICH ARE BROAD GAUGED FISHING EXPEDITIONS ASKING FOR INFORMATION ON A LARGE VARIETY OF TOPICS UNRELATED TO FOREIGN INTELLIGENCE. IT IS SURPRISING TO US HOW MANY REQUESTERS APPARENTLY BELIEVE WE HAVE AN ALL-INCLUSIVE RECORD SYSTEM.

AS NOTED EARLIER, A MAJOR CONCERN IS THAT THE RELEASE OF INACCURATE UNEVALUATED INTELLIGENCE WHICH IS OUT OF CONTEXT IS SERIOUSLY MISLEADING TO THE PUBLIC.

-- BECAUSE OF THE NATURE OF THE INFORMATION WE MUST REVIEW, IT IS IMPERATIVE TO USE PROFESSIONAL INTELLIGENCE

OFFICERS TO MAKE JUDGMENTS ON THE RELEASES OF MATERIAL. THIS, OF COURSE, DRAINS RESOURCES FROM THEIR PRIME INTELLIGENCE FUNCTIONS. ADDITIONAL FUNDING SO THAT WE COULD HIRE MORE INDIVIDUALS TO CONTEND WITH FOIA WOULD NOT BEGIN TO SOLVE THE PROBLEM. FOR EXAMPLE, WHEN WE RECEIVE A REQUEST FOR INFORMATION CONCERNING, SAY AFGHANISTAN, IN THE FINAL ANALYSIS A PROFESSIONAL INTELLIGENCE OFFICER, A SENIOR INTELLIGENCE OFFICER FAMILIAR WITH AFGHANISTAN'S AFFAIRS, MUST CAREFULLY REVIEW THE INFORMATION DESTINED FOR RELEASE OR POSSIBLE RELEASE. HE MUST DETERMINE, INDEED HE MUST BE READY TO SWEAR TO THE FACT, THAT ON THE ONE HAND, WE ARE RELEASING ALL THAT WE CAN AND ON THE OTHER HAND THAT IN SO CERTIFYING WE ARE NOT INADVERTENTLY RELEASING INFORMATION DAMAGING TO THE NATIONAL SECURITY OR OUR SOURCES OVERSEAS. THE POINT IS THAT THE TIME SPENT IN EACH CASE UTILIZES TIME WHICH WOULD OTHERWISE BE UTILIZED IN THE CONDUCT OF OR HEADQUARTERS SUPPORT TO INTELLIGENCE OPERATIONS OVERSEAS.

JUDGE AUBREY ROBINSON IN A HEARING ON A FOIA CASE RECENTLY MADE SOME PERTINENT COMMENTS. I QUOTE: "IT IS LIKE TRYING TO RUN A BUSINESS AND HAVE AN AUDIT AT THE SAME TIME, AND THAT'S THE BUSINESS THAT MANY OF THESE AGENCIES ARE PUT IN WITH THE KINDS OF REQUESTS THAT ARE MADE OF THEM AND THEY COME FROM ALL OVER THE WORLD AS YOU WELL KNOW--ALL OVER THE COUNTRY, NOT NECESSARILY ALL OVER THE WORLD--BUT FANTASTIC-- AND ONE OF THESE DAYS--I DON'T SEE HOW SOME OF THESE AGENCIES CAN OPERATE. EVERYBODY WHO WANTS TO WRITE A NEWSPAPER ARTICLE, EVERYBODY WHO HAS HAD AN ARGUMENT OVER THE DINNER TABLE WITH HIS WIFE, EVERYBODY WHO WANTS TO WRITE A BOOK, EVERYBODY WHO GOES TO JAIL AND DOESN'T HAVE ANYTHING ELSE TO DO STARTS FILING FREEDOM OF INFORMATION ACT REQUESTS. IF THE PUBLIC KNEW--IF CONGRESS EVER COSTED OUT THIS THING, I THINK THEY WOULD TAKE ANOTHER LOOK AT IT."

-- IN THIS REGARD, SINCE IMPLEMENTATION OF THE AMENDED FOIA, WE HAVE EXPENDED AN AVERAGE OF 100 MAN-YEARS PER YEAR WORKING ON REQUESTS FOR INFORMATION UNDER THE DISCLOSURE

STATUTES. THIS EXPENDITURE OF VALUABLE HUMAN RESOURCES IS GREATER THAN THAT SPENT ON ANY ONE OF SEVERAL AREAS OF KEY INTELLIGENCE INTEREST TO THE UNITED STATES. IS THIS THE PRIORITY CONGRESS INTENDS?

-- WE HAVE ALSO FOUND AN INCREASE IN APPEALS AND LITIGATION CASES RESULTING FROM OUR INABILITY TO RESPOND TO FOIA REQUESTS ACCORDING TO THE TIME PROVISIONS OF THE FOIA AS I NOTED EARLIER. THIS TENDS TO DELAY OUR INITIAL PROCESSING OF CASES BECAUSE OF COURT IMPOSED DEADLINES WHICH MUST NECESSARILY RECEIVE OUR FIRST PRIORITY.

EVEN WHEN THE AGENCY DIVERTS THIS MUCH PERSONNEL TIME TO COMPLY WITH THE PRESENT STATUTE, THERE STILL EXISTS THE VERY REAL POSSIBILITY THAT AN ORCHESTRATED EFFORT BY PERSONS HOSTILE TO THE AGENCY COULD LITERALLY SWAMP THE AGENCY WITH FOIA REQUESTS. PURSUING THE ENTITLEMENT WHICH ANY PERSON IN THE WORLD NOW HAS UNDER THE LAW, THOSE PERSONS COULD PERFECTLY LEGALLY MAKE UNLIMITED REQUESTS AND FOLLOW UP WITH LITIGATION. QUITE

EFFECTIVELY -- AND ENTIRELY WITHIN THE U.S. LEGAL FRAMEWORK --
THEY COULD SABOTAGE THE NORMAL MISSION OF THE AGENCY.

THUS, THE ADMINISTRATIVE BURDEN OF THE FOIA IS ALSO A
SERIOUS PROBLEM FOR US, WHICH, WHEN COUPLED WITH THE MORE
SERIOUS PROBLEMS I DESCRIBED EARLIER MAKES RELIEF A MATTER OF
URGENCY. A REMEDY IS DIFFICULT TO FASHION, AND WE HAVE GIVEN
IT A LOT OF THOUGHT. WE DO NOT SEEK A TOTAL EXEMPTION FROM FOIA.
WHAT WE DO SEEK IS A MORE EFFECTIVE WAY TO INSURE OUR SOURCES
THAT WE ARE DOING WHAT THE 1949 CIA ENABLING ACT DIRECTS
US TO DO, THAT IS, PROTECT THEM. WE THINK WE HAVE ACHIEVED
THIS OBJECTIVE, AT LEAST PARTIALLY, BY PERFECTING THE
RELEVANT CIA ACT PROVISIONS IN A MANNER FULLY CONSISTENT
WITH THE SPIRIT AND LETTER OF NATIONAL SECURITY EXEMPTIONS
ALREADY IN THE FREEDOM OF INFORMATION ACT. AT THE SAME

TIME, WE ARE ALSO CONSCIOUS OF THE COMPETING CONCERNS OF U.S. CITIZENS WHOSE SUPPORT AND CONFIDENCE WE MUST MAINTAIN. IT IS FOR THIS REASON THAT WE HAVE CONSTRUCTED OUR AMENDMENT IN SUCH A MANNER AS TO KEEP ALL OF OUR FILES ACCESSIBLE TO AMERICAN CITIZENS AND PERMANENT RESIDENT ALIENS REQUESTING INFORMATION ON THEMSELVES, SUBJECT TO EXISTING FOIA EXEMPTIONS.

THE AMENDMENT TO THE CIA ACT OF 1949, PERMITS THE DIRECTOR OF CENTRAL INTELLIGENCE TO DESIGNATE CERTAIN FILES AS EXEMPT FROM THE PROVISIONS OF LAWS WHICH WOULD REQUIRE THE PUBLICATION OR DISCLOSURE, OR SEARCH AND REVIEW OF THOSE FILES.

THOSE FOUR CATEGORIES OF FILES, AS LISTED IN THE AMENDMENT, CONTAIN THE MOST SENSITIVE INTELLIGENCE INFORMATION OF THIS NATION. IT IS THESE FILES WHICH CONTAIN THE NAMES OF OUR SOURCES OF INFORMATION. THESE FILES DO NOT, HOWEVER, CONTAIN THE FINISHED INTELLIGENCE PRODUCT OF CIA WHICH WOULD REMAIN SUBJECT TO REQUESTS UNDER THE FOIA. I HAVE WITH ME

TODAY OFFICERS WHO REGULARLY WORK WITH THE FOIA, WHO WILL BE HAPPY AT THE CONCLUSION OF MY TESTIMONY TO EXPLAIN IN MORE DETAIL THE SALIENT FEATURES OF THE AMENDMENT. IT IS OF PARTICULAR SIGNIFICANCE, YOU SHOULD NOTE, THAT THE TYPE OF MATERIAL WHICH OUR PROPOSED AMENDMENT SEEKS TO EXEMPT FROM SEARCH AND ACCESS IS PRECISELY THAT TYPE OF INFORMATION WHICH WE HAVE BEEN ABLE TO WITHHOLD IN THE PAST WITH THE BLESSINGS OF THE COURTS. NEVERTHELESS, REQUESTS FOR THIS TYPE OF INFORMATION CONTINUE TO BE RECEIVED, SEARCHES MUST BE CONDUCTED TO LOCATE THE MATERIAL, DOCUMENTS MUST BE REVIEWED AND THE RESULT IS INEVITABLY THE SAME--MOST OF THE MATERIAL MUST BE DENIED. IN THIS REGARD, FOR EXAMPLE, EVEN THE CENTER FOR NATIONAL SECURITY STUDIES, WHICH CLAIMS MOST STRENUOUSLY THAT THE FOIA AS APPLIED TO CIA IS INVALUABLE TO THE PUBLIC, STATES IN ITS COMPILATION OF "ABSTRACTS OF DOCUMENTS ON NATIONAL SECURITY AND CIVIL LIBERTIES" THAT, "THE PRIMARY SOURCES OF INFORMATION ON THE U.S. INTELLIGENCE

AGENCY REFERRED TO IN THIS BOOKLET ARE ... CONGRESSIONAL COMMITTEE REPORTS AND THE ROCKEFELLER REPORT." THIS TYPE OF INFORMATION WILL, OBVIOUSLY, REMAIN AVAILABLE. THUS, UNDER THE PROPOSED REVISION OF THE CENTRAL INTELLIGENCE AGENCY ACT, THE PUBLIC WILL CONTINUE TO RECEIVE ESSENTIALLY THE SAME INFORMATION IT RECEIVES TODAY UNDER THE FOIA. HOPEFULLY, BY THE ELIMINATION OF THE ADMINISTRATIVE BURDEN OCCASIONED BY THE OBLIGATION TO PROCESS REQUESTS FOR INFORMATION WHICH PREDICTABLY CANNOT BE RELEASED, THE PROCESSING OF REQUESTS FOR INFORMATION WHICH MAY BE RELEASED CAN BE EXPEDITED.

I HAVE NOW BEEN DDCI FOR ALMOST 2 YEARS AND WAS EARLIER ASSOCIATED WITH INTELLIGENCE FOR A NUMBER OF YEARS AS A FOREIGN SERVICE OFFICER. I TELL YOU IN ALL CANDOR THAT THE EROSION OF OUR ABILITY TO PROTECT OUR SOURCES AND METHODS AND, MORE IMPORTANTLY, THE LARGER THAN LIFE PERCEPTION OF THAT EROSION IS THE MOST SERIOUS PROBLEM THE CIA FACES TODAY AND INDEED A SERIOUS PROBLEM FOR THE NATION. IF WE DO NOT SOLVE IT, WE CANNOT CONTINUE TO BE THE BEST INTELLIGENCE

ORGANIZATION IN THE WORLD.

AS PRESIDENT CARTER STATED ON OCTOBER 1ST OF LAST YEAR, "WE MUST INCREASE OUR EFFORTS TO GUARD AGAINST DAMAGE TO OUR CRUCIAL INTELLIGENCE SOURCES AND OUR METHODS OF COLLECTION, WITHOUT IMPAIRING CIVIL AND CONSTITUTIONAL RIGHTS."

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, IF WE BELIEVE WE NEED QUALITY INTELLIGENCE THEN WE HAVE TO ACCEPT A LARGE MEASURE OF SECRECY. FOIA HAS CALLED INTO QUESTION AROUND THE WORLD OUR ABILITY TO KEEP A SECRET. ITS APPLICATION IN ITS CURRENT FORM TO CIA IS INAPPROPRIATE, HARMFUL AND UNNECESSARY IN LIGHT OF CURRENT OVERSIGHT MECHANISMS. RELIEF FROM FOIA IS A KEY STEP THAT MUST BE TAKEN IN THE REVITALIZATION OF THIS NATION'S INTELLIGENCE CAPABILITY.